



HM Treasury

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Angie Ridgwell
Department of Business, Energy and Industrial Strategy
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6th March 2017

Dear Angie,

Public Service Pensions: public body pension scheme reform

I wrote to you in 2014 concerning requirements to reform the pension schemes for employees of non-departmental public bodies, non-ministerial departments, arms length bodies and similar bodies and offices (“public bodies”). Thank you for your ongoing work in the area. This letter is to update you about the potential impact of ongoing litigation on the reforms. Departments should continue to work with their public bodies on the basis that they will deliver reform by the 5 April 2018, but should delay any plans to implement the changes set out in paragraph 4 ahead of that date.

As you will be aware, the Government is currently defending litigation about the lawfulness of an element of the reforms to public service pensions. The Courts have been asked to consider whether the transitional protection (TP) arrangements offered to certain public sector workers are unlawful on grounds of age (and other) discrimination. TP arrangements have generally been applied to individuals who were within 10 years’ of retirement on 1 April 2012. The main public service schemes all include TP arrangements and a number of funded pension schemes have proposed to implement equivalent arrangements in implementing reforms.

Two Employment Tribunals have now reached contradictory verdicts on the lawfulness of TP, specifically for the judiciary and firefighters. In the case of the Judiciary, TP was found to be

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unlawful; in the case of firefighters, TP was found to be lawful. The Government is appealing the ruling in respect of the judiciary, and we understand the claimants in the other case intend to do likewise for the firefighters ruling.

Given the ongoing consideration by the Courts, the Chief Secretary to the Treasury has taken the view that government should delay any impending transfer of staff to the main public service pension schemes that include TP provisions, and should not create any new transitional arrangements in funded schemes, until the Employment Appeal Tribunal (EAT) has handed down its judgment. No reform involving these elements should proceed ahead of April 2018. If in doubt, please consult the Workforce, Pay and Pensions team (Thomas.Ottens@hmtreasury.gsi.gov.uk) before enacting any change.

HM Treasury's position remains that the TP arrangements are lawful, and as such the expectation remains that you should continue to work with your public bodies to progress reforms to the original deadline of April 2018. We will review the position once the EAT has ruled on the matter, expected in autumn this year.

Lastly, I would be grateful for an update on the progress your public bodies have made in working towards reforming their pension schemes. Please provide Tom Ottens with details by 14 April 2017.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'J. Kelly'.

Julian Kelly